

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CARLENE BECHEN, ELVIRA
BUMPUS, RONALD BIENDSEIL, LESLIE W DAVIS,
III, BRETT ECKSTEIN, GLORIA ROGERS, RICHARD
KRESBACH, ROCHELLE MOORE, AMY RISSEEUW,
JUDY ROBSON, JEANNE SANCHEZ-BELL,
CECELIA SCHLIEPP, TRAVIS THYSSEN, CINDY
BARBERA, RON BOONE, VERA BOONE,
EVANJELINA CLEERMAN, SHEILA COCHRAN,
MAXINE HOUGH, CLARENCE JOHNSON,
RICHARD LANGE, and GLADYS MANZANET

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE and
RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government
Accountability Board, each only in his official
capacity: MICHAEL BRENNAN, DAVID
DEININGER, GERALD NICHOL, THOMAS CANE,
THOMAS BARLAND, and TIMOTHY VOCKE, and
KEVIN KENNEDY, Director and General Counsel for
the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E.
PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and
SEAN P. DUFFY,

Intervenor-Defendants.

VOCES DE LA FRONTERA, INC., RAMIRO VARA,
OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Members of the Wisconsin Government
Accountability Board, each only in his official
capacity: MICHAEL BRENNAN, DAVID
DEININGER, GERALD NICHOL, THOMAS CANE,
THOMAS BARLAND, and TIMOTHY VOCKE, and
KEVIN KENNEDY, Director and General Counsel for
the Wisconsin Government Accountability Board,

Defendants.

Case No. 11-CV-562
JPS-DPW-RMD

Case No. 11-CV-1011
JPS-DPW-RMD

TRIAL
SCHEDULING
ORDER

Before WOOD, *Circuit Judge*, DOW, *District Judge*, and STADTMUELLER,
District Judge

The following proceedings have been scheduled before the Honorable Judges Diane P. Wood, Robert J. Dow and J. P. Stadtmueller in the United States District Court for the Eastern District of Wisconsin, Room 425 United States Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202:

FINAL PRETRIAL

CONFERENCE: Thursday, February 16, 2012, at 11:00 AM

TRIAL TO

THE COURT: Tuesday, February 21, 2012, at 8:30 AM

Accordingly,

IT IS ORDERED that counsel for the parties begin conferring forthwith to address the substantial work necessary to the orderly preparation of a single joint final pretrial report. Toward that end, all counsel who will actually try this case must meet and confer in person with the goal of jointly preparing a joint final pretrial report, the principal burden for the filing of which rests with counsel for the plaintiffs. Consistent with the facts and law applicable to the case, the report must separately address each of applicable provisions found in Civil L. R. 16(c)(1). The final pretrial report must be electronically filed no later than the close of business on Tuesday, February 14, 2012. In addition, a hard copy of the report bearing the inked signatures of all trial counsel, along with five (5) sets of each party's exhibits, including all documents and a photograph of each physical exhibit, formatted, indexed, and tabbed in individual (no larger than 2" capacity), Easy Open, Slant D-ring binders (such as the Cardinal CRD10321), must be

simultaneously delivered to the court's chambers on Tuesday, February 14, 2012.

In preparing the final pretrial report, counsel and their respective clients should carefully read and study with care each of the following seven (7) mandatory requirements:

1. All exhibits must be pre-marked and sequentially numbered in accordance with the procedure outlined in General L. R. 26. Copies of all exhibits, including a photograph of each physical exhibit, must be disclosed and provided to opposing counsel. If an identical exhibit is to be used jointly by both parties during the course of trial, the exhibit should only be marked once whether by plaintiffs or defendants, and introduced into evidence whether by one party or jointly.
2. A brief summary (not to be confused with a trial brief) of the elements underlying each claim and defense to be adjudicated must be included in the final pretrial report and inserted immediately preceding the parties joint proposed findings of fact and conclusions of law.
3. The parties' joint final pretrial report should include a statement of material facts to which the parties have agreed or stipulated. This statement is to be followed by each party's proposed findings of fact and conclusions of law on which the proponent has the burden of proof as to a particular claim or defense. The proposed findings and conclusions of law must be formatted in short numbered paragraphs, including within each paragraph appropriate references to proffered supporting testimony, exhibits and/or stipulations that may touch upon the particular proposed finding.
4. To the extent that counsel for any party has a good faith belief that the evidence at trial will support one or more findings contrary to any finding proposed by another party, counsel must also include as part of the pretrial report, specific responses to such proposed findings, including appropriate

references to proffered testimony together with any exhibit(s) supporting a contrary finding—whether of fact or law.

5. Absent exceptional circumstances, motions in limine must be filed on or before Thursday, February 9, 2012. Each motion in limine should be accompanied by a brief memorandum of law in support. Should motions in limine be filed, any response to the particular motion is due within three (3) days of the filing of such motion. The earlier such motions are filed, the more likely the court will be fully prepared to meaningfully address the motions during the final pretrial conference. Moreover, all non-dispositive motions that do not constitute motions in limine must also be filed on or before Thursday, February 9, 2012.
6. As officers of the court, counsel have an obligation to discuss the anticipated filing of such motions directly with opposing counsel, as more often than not such matters are left best resolved informally with open communications between counsel without the necessity of court intervention. The court notes that to discuss requires actual discussion with suggestions for genuine compromise, as opposed to skirmishes of words in email or voice messages between opposing counsel. Therefore, when filed, all pretrial motions must include a separate certification¹ prepared by movant's counsel stating that, after personal consultation with counsel for the party opposed to the motion, and sincere attempts to resolve their differences, the parties are unable to reach an accord. The certification must also recite the dates and times of such conferences and the names of all participants. To be clear, the court expects the parties to confer several times and document those conferences before raising a pretrial motion before the court. Failure to comply with the letter and the spirit of this requirement will be viewed by the court as sufficient grounds to deny the motion.

¹The certification that must be filed with a pretrial motion must be docketed as a separate docket entry and should not be hidden within a motion or a brief.

7. With regard to proposed findings of fact and conclusions of law, and any trial brief in support thereof, the court makes the following suggestions which will serve to aid the court in efficiently addressing such matters:
- a. If the parties intend to file deposition testimony, the parties should e-file a single transcript of the deposition testimony of each witness upon which they intend to rely. Any party citing to a given deponent's testimony should cite only to the docket entry containing said deponent's testimony and provide the court with corresponding page and line numbers enabling the court to easily locate that deposition, instead of engaging in an archaeological dig to locate the source from which the specific excerpt may have been drawn.
 - b. Any exhibit or report submitted in support of or in opposition to a party's position should be e-filed in its entirety in a single entry, and any party citing to an exhibit or report should cite only to the one entry containing the exhibit or report.
 - c. All parties should agree on a given citation system. No party should refer to a document by a different moniker than that by which the other parties refer to the same document. The court strongly encourages the parties to include the docket number (and, if applicable, exhibit number) of documents cited in their submissions. The court also encourages the parties, if they are filing numerous exhibits as attachments to their motions, to include an index attached to the motion that notes the title of the exhibits that follow. When viewing the electronic docket, it should be obvious which documents are responsive to (or in support of) another document, as well as the identity of such other document.

- d. All documents submitted to the court must be filed electronically and must be in an electronically searchable format. If any documents are filed under seal, a compact disc containing electronically searchable PDF versions of the files should be provided to the clerk's office so that the court will have access to all documents, including those filed under seal, in an electronically searchable format.
- e. Counsel *shall not* deliver additional courtesy copies of submissions to the Judge's chambers unless specifically directed to do so pursuant to this order.

Trial Briefs

Since time constraints will preclude the filing of post-trial briefs, a trial brief—not more than 15 pages in length—addressing those matters on which any party has the burden of proof as to any claim or defense must be filed not later than Wednesday, February 15, 2012. Opposing counsel will be granted until Monday, February 20, 2012, to file a response—not more than 10 pages in length. Any further reply will be limited to oral submissions during arguments at the close of the evidence received during the trial.

Given the necessarily compressed schedule for the parties and their counsel to complete their pretrial preparations in an expedited, yet orderly manner, it becomes ever more critically important that counsel cooperate with one another in completing their pretrial tasks in a professional manner, including preparation of the joint final pretrial report required to be filed in accordance with this order.

Once again, counsel for the parties are reminded that, as officers of the court, they are expected to confer in a candid open manner, and make a good faith effort toward narrowing the issues for trial while at the same time

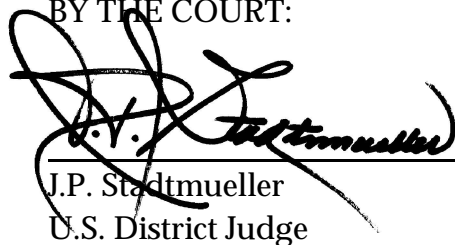
agreeing upon stipulations of ultimate fact that, in the end, will aid the court in conserving its limited resources.

Finally, the court readily acknowledges and appreciates the fact that preparation of the joint final pretrial report requires a substantial commitment of time and resources, and the parties ought not treat the court's directives lightly, for in the final analysis adequate preparation remains the hallmark of an effective advocate and, while every litigant is entitled to their day in court, they are not entitled to intrude upon someone else's day in court.

SO ORDERED.

Dated at Milwaukee, Wisconsin, this 15th day of December, 2011.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge